



Senate

General Assembly

File No. 20

February Session, 2008

Substitute Senate Bill No. 205

Senate, March 12, 2008

The Committee on Government Administration and Elections reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE IMPLEMENTATION OF STATE CONTRACTING REFORM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (*Effective from passage*) Sections 1 to 15, inclusive, 20 to 32,
2 inclusive, and 41 to 47, inclusive, of public act 07-1 of the September
3 special session shall be effective October 1, 2008.

4 Sec. 2. (*Effective from passage*) Section 16 of public act 07-1 of the
5 September special session shall be effective January 1, 2009.

6 Sec. 3. (*Effective from passage*) Sections 18 and 33 to 40, inclusive, of
7 public act 07-1 of the September special session shall be effective April
8 1, 2010.

9 Sec. 4. Section 4e-1 of the 2008 supplement to the general statutes is
10 repealed and the following is substituted in lieu thereof (*Effective*
11 *October 1, 2008*):

12 For the purposes of sections 4e-1 to 4e-47, inclusive, as amended by
13 this act:

14 (1) "Best value selection" means a contract selection process in which
15 the award of a contract is based on a combination of quality, timeliness
16 and cost factors;

17 (2) "Bid" means an offer, submitted in response to an invitation to
18 bid, to furnish supplies, materials, equipment, construction or
19 contractual services to a state contracting agency under prescribed
20 conditions at a stated price;

21 (3) "Bidder" means a business submitting a bid in response to an
22 invitation to bid by a state contracting agency;

23 (4) "Business" means any individual or sole proprietorship,
24 partnership, firm, corporation, trust, limited liability company, limited
25 liability partnership, joint stock company, joint venture, association or
26 other legal entity through which business for profit or not-for-profit is
27 conducted;

28 (5) "Competitive bidding" means the submission of prices by a
29 business competing for a contract to provide supplies, materials,
30 equipment or contractual services to a state contracting agency, under
31 a procedure in which the contracting authority does not negotiate
32 prices, as set forth in statutes and regulations concerning procurement;

33 (6) "Consultant" means (A) any architect, professional engineer,
34 landscape architect, land surveyor, accountant, interior designer,
35 environmental professional or construction administrator, who is
36 registered or licensed to practice such person's profession in
37 accordance with the applicable provisions of the general statutes, (B)
38 any planner or any environmental, management or financial specialist,
39 or (C) any person who performs professional work in areas including,
40 but not limited to, educational services, medical services, information
41 technology and real estate appraisal;

42 (7) "Consultant services" means those professional services rendered

43 by a consultant and any incidental services that a consultant and those
44 in the consultant's employ are authorized to perform;

45 (8) "Contract" or "state contract" means an agreement or a
46 combination or series of agreements between a state contracting
47 agency or quasi-public agency and a business for:

48 (A) A project for the construction, reconstruction, alteration,
49 remodeling, repair or demolition of any public building, public work,
50 mass transit, rail station, parking garage, rail track or airport;

51 (B) Services, including, but not limited to, consultant and
52 professional services;

53 (C) The acquisition or disposition of personal property;

54 (D) The provision of goods and services, including, but not limited
55 to, the use of purchase of services contracts and personal service
56 agreements;

57 (E) The provision of information technology, state agency
58 information system or telecommunication system facilities, equipment
59 or services;

60 (F) A lease; or

61 (G) A licensing agreement;

62 "Contract" or "state contract" does not include a contract between a
63 state agency or a quasi-public agency and a political subdivision of the
64 state;

65 (9) "Term contract" means the agreement reached when the state
66 accepts a bid or proposal to furnish supplies, materials, equipment or
67 contractual services at a stated price for a specific period of time in
68 response to an invitation to bid;

69 (10) "Contract risk assessment" means (A) the identification and
70 evaluation of loss exposures and risks, including, but not limited to,

71 business and legal risks associated with the contracting process and
72 the contracted goods and services, and (B) the identification,
73 evaluation and implementation of measures available to minimize
74 potential loss exposures and risks;

75 (11) "Contractor" means any business that is awarded, or is a
76 subcontractor under, a contract or an amendment to a contract with a
77 state contracting agency under statutes and regulations concerning
78 procurement, including, but not limited to, a small contractor, minority
79 business enterprise, an individual with a disability, as defined in
80 section 4a-60 of the 2008 supplement to the general statutes, or an
81 organization providing products and services by persons with
82 disabilities;

83 (12) "Contractual services" means the furnishing of labor by a
84 contractor, not involving the delivery of a specific end product other
85 than reports, which are merely incidental to the required performance
86 and includes any and all laundry and cleaning service, pest control
87 service, janitorial service, security service, the rental and repair, or
88 maintenance, of equipment, machinery and other state-owned
89 personal property, advertising and photostating, mimeographing,
90 human services and other service arrangements where the services are
91 provided by persons other than state employees. "Contractual services"
92 includes the design, development and implementation of technology,
93 communications or telecommunications systems or the infrastructure
94 pertaining thereto, including hardware and software and services for
95 which a contractor is conferred a benefit by the state, whether or not
96 compensated by the state. "Contractual services" does not include
97 employment agreements or collective bargaining agreements;

98 (13) "Data" means recorded information, regardless of form or
99 characteristic;

100 (14) "Vote of two-thirds of the members of the board present and
101 voting" means a vote by the State Contracting Standards Board that is
102 agreed upon by two-thirds of the members of the State Contracting
103 Standards Board present and voting for a particular purpose and that

104 includes the vote of one member of the board appointed by a
105 legislative leader;

106 (15) "Electronic" means electrical, digital, magnetic, optical,
107 electromagnetic, or any other similar technology;

108 (16) "Emergency procurement" means procurement by a state
109 contracting agency, quasi-public agency, as defined in section 1-120,
110 judicial department or constituent unit of higher education that is
111 made necessary by a sudden, unexpected occurrence that poses a clear
112 and imminent danger to public safety or requires immediate action to
113 prevent or mitigate the loss or impairment of life, health, property or
114 essential public services or in response to a court order, settlement
115 agreement or other similar legal judgment;

116 (17) "Equipment" means personal property of a durable nature that
117 retains its identity throughout its useful life;

118 (18) "Materials" means items required to perform a function or used
119 in a manufacturing process, particularly those incorporated into an
120 end product or consumed in its manufacture;

121 (19) "Nonprofit agency" means any organization that is not a for-
122 profit business under 501(c)(3) of the Internal Revenue Code of 1986, or
123 any subsequent corresponding internal revenue code of the United
124 States, as from time to time amended, makes no distribution to its
125 members, directors or officers and provides services contracted for by
126 (A) the state, or (B) a nonstate entity;

127 (20) "Professional services" means any type of service to the public
128 that requires that members of a profession rendering such service
129 obtain a license or other legal authorization as a condition precedent to
130 the rendition thereof, including, but not limited to, the professional
131 services of architects, professional engineers, or jointly by architects
132 and professional engineers, landscape architects, certified public
133 accountants and public accountants, land surveyors, attorneys-at-law,
134 psychologists, licensed marital and family therapists, licensed

135 professional counselors and licensed clinical social workers as well as
136 such other professional services described in section 33-182a;

137 (21) "Privatization contract" means an agreement or series of
138 agreements between a state contracting agency and a person or entity
139 in which such person or entity agrees to provide services that are
140 substantially similar to and in lieu of services provided, in whole or in
141 part, by state employees, other than contracts with a nonprofit agency,
142 which are in effect as of [January 1, 2009] October 1, 2008, and which
143 through a renewal, modification, extension or rebidding of contracts
144 continue to be provided by a nonprofit agency;

145 (22) "Procurement" means contracting for, buying, purchasing,
146 renting, leasing or otherwise acquiring or disposing of, any supplies,
147 services, including but not limited to, contracts for purchase of services
148 and personal service agreements, interest in real property, or
149 construction, and includes all government functions that relate to such
150 activities, including best value selection and qualification based
151 selection;

152 (23) "Proposer" means a business submitting a proposal to a state
153 contracting agency in response to a request for proposals or other
154 competitive sealed proposal;

155 (24) "Public record" means a public record, as defined in section 1-
156 200;

157 (25) "Qualification based selection" means a contract selection
158 process in which the award of a contract is primarily based on an
159 assessment of contractor qualifications and on the negotiation of a fair
160 and reasonable price;

161 (26) "Regulation" means regulation, as defined in section 4-166;

162 (27) "Request for proposals" means all documents, whether attached
163 or incorporated by reference, utilized for soliciting proposals;

164 (28) "State contracting agency" means any executive branch agency,

165 board, commission, department, office, institution or council. "State
166 contracting agency" does not include the judicial branch, the legislative
167 branch, the offices of the Secretary of the State, the State Comptroller,
168 the Attorney General, the State Treasurer, with respect to their
169 constitutional functions, any state agency with respect to contracts
170 specific to the constitutional and statutory functions of the office of the
171 State Treasurer. For the purposes of section 4e-16 of the 2008
172 supplement to the general statutes, state contracting agency includes
173 any constituent unit of the state system of higher education;

174 (29) "Subcontractor" means a subcontractor of a contractor for work
175 under a contract or an amendment to a contract;

176 (30) "Supplies" means any and all articles of personal property,
177 including, but not limited to, equipment, materials, printing, insurance
178 and leases of real property, excluding land or a permanent interest in
179 land furnished to or used by any state agency;

180 (31) "Infrastructure facility" means a building, structure or network
181 of buildings, structures, pipes, controls and equipment that provide
182 transportation, utilities, public education or public safety services.
183 Infrastructure facility includes government office buildings, public
184 schools, jails, water treatment plants, distribution systems and
185 pumping stations, waste water treatment plants, collections systems
186 and pumping stations, solid waste disposal plants, incinerators,
187 landfills, and related facilities, public roads and streets, highways,
188 public parking facilities, public transportation systems, terminals and
189 rolling stock, rail, air and water port structures, terminals and
190 equipment; and

191 (32) "State employee" means state employee, as defined in section 5-
192 154 and, for purposes of section 4e-16 of the 2008 supplement to the
193 general statutes, state employee includes an employee of any state
194 contracting agency.

195 Sec. 5. Section 4e-10 of the 2008 supplement to the general statutes is
196 repealed and the following is substituted in lieu thereof (*Effective*

197 October 1, 2008):

198 (a) On or before [July] May 1, 2010, the board shall submit to the
199 Governor and the General Assembly such legislation as is necessary to
200 permit state contracting agencies, not including quasi-publics,
201 institutions of higher education, and municipal procurement processes
202 utilizing state funds, to carry out their functions under statutes and
203 regulations concerning procurement.

204 (b) On or before [July] May 1, 2011, the board shall submit to the
205 Governor and the General Assembly such legislation as is necessary to
206 apply the provisions of statutes concerning procurement to constituent
207 units of the state system of higher education. Concomitantly, the board
208 shall submit such additional legislation as is necessary to apply the
209 provisions of statutes and regulations concerning privatization and
210 procurement to quasi-public agencies.

211 (c) On or before [July] May 1, 2012, the board shall submit to the
212 Governor and the General Assembly such legislation as is necessary to
213 apply the provisions of statutes and regulations concerning
214 procurement to the municipal procurement processes utilizing state
215 funds.

216 Sec. 6. Section 4e-11 of the 2008 supplement to the general statutes is
217 repealed and the following is substituted in lieu thereof (*Effective*
218 *October 1, 2008*):

219 (a) The board shall provide assistance to the Secretary of the State,
220 Comptroller, Treasurer and Attorney General to develop best
221 procurement practices specific to the constitutional and statutory
222 functions of each office and consistent with statutes and regulations
223 concerning procurement.

224 (b) Each of the officers specified in subsection (a) of this section shall
225 adopt a code of procurement practices on or before [June] April 1,
226 2011.

227 Sec. 7. Section 4e-12 of the 2008 supplement to the general statutes is

228 repealed and the following is substituted in lieu thereof (*Effective*
229 *October 1, 2008*):

230 (a) On or before [February 1, 2011] December 1, 2010, the judicial
231 branch and the legislative branch shall each prepare a procurement
232 code applicable to contracting expenditures, including, but not limited
233 to, expenditures: (1) Involving contracting and procurement processes
234 for purchasing or leasing of supplies, materials or equipment,
235 consultant or consultant services, personal service agreements or
236 purchase of service agreements; and (2) relating to contracts for the
237 renovation, alteration or repair of any judicial branch or legislative
238 branch facility in accordance with section 4b-1.

239 (b) The procurement codes described in subsection (a) of this section
240 shall be designed to: (1) Establish uniform contracting standards and
241 practices; (2) simplify and clarify contracting standards and
242 procurement policies and practices, including, but not limited to,
243 procedures for competitive sealed bids, competitive sealed proposals,
244 small purchases, sole source procurements, emergency procurements
245 and special procurements; (3) ensure the fair and equitable treatment
246 of all businesses and persons who deal with the procurement system;
247 (4) include a process to maximize the use of small contractors and
248 minority business enterprises; (5) provide increased economy in
249 procurement activities and maximize purchasing value to the fullest
250 extent possible; (6) ensure that the procurement of supplies, materials,
251 equipment, services, real property and construction is obtained in a
252 cost-effective and responsive manner; (7) include a process to ensure
253 contractor and judicial branch or legislative branch accountability; and
254 (8) provide a process for competitive sealed bids, competitive sealed
255 proposals, small purchases, sole source procurements, emergency
256 procurements, special procurements, best value selection, qualification
257 based selection and the conditions for their use.

258 (c) On or before [February 1, 2011] December 1, 2010, the judicial
259 branch shall submit such procurement code for review and approval to
260 the joint standing committee of the General Assembly having

261 cognizance of matters relating to the judiciary.

262 Sec. 8. Section 4e-14 of the 2008 supplement to the general statutes is
263 repealed and the following is substituted in lieu thereof (*Effective*
264 *October 1, 2008*):

265 On and after [June] April 1, 2010, all state contracts of each state
266 contracting agency that take effect on or after [June] April 1, 2010, shall
267 contain provisions to ensure accountability, transparency and results
268 based outcomes, as prescribed by the State Contracting Standards
269 Board. On and after [June] April 1, 2010, all state contracts of the
270 legislative branch and the judicial branch that take effect on or after
271 [June] April 1, 2010, shall contain provisions to ensure accountability,
272 transparency and results based outcomes.

273 Sec. 9. Section 4e-17 of the 2008 supplement to the general statutes is
274 repealed and the following is substituted in lieu thereof (*Effective*
275 *October 1, 2009*):

276 (a) Except as otherwise provided, the provisions of sections [4e-16]
277 4e-17 to 4e-47, inclusive, as amended by this act, shall apply to all
278 contracts solicited or entered into by state contracting agencies after
279 [June] April 1, 2010.

280 (b) Except as otherwise provided, the provisions of sections 4e-16 to
281 4e-47, inclusive, as amended by this act, shall apply to every
282 expenditure of public funds by any state contracting agency,
283 irrespective of their source, involving any state contracting and
284 procurement processes, including, but not limited to, leasing and
285 property transfers, purchasing or leasing of supplies, materials or
286 equipment, consultant or consultant services, personal service
287 agreements, purchase of service agreements or privatization contracts,
288 as defined in section 4e-1, as amended by this act, and, relating to
289 contracts for the construction, reconstruction, alteration, remodeling,
290 repair or demolition of any public building, bridge or road.

291 (c) Nothing in sections 4e-16 to 4e-47, inclusive, as amended by this

292 act, shall be construed to require the application of procurement
293 statutes or regulations to a procurement that involves the expenditure
294 of federal assistance or federal contract funds if federal law provides
295 procurement procedures applicable to the expenditure of such funds,
296 to the extent such federal procedures are inconsistent with state
297 procurement statutes or regulations.

298 Sec. 10. Section 4e-19 of the 2008 supplement to the general statutes
299 is repealed and the following is substituted in lieu thereof (*Effective*
300 *August 1, 2009*):

301 (a) All purchases of, and contracts for, supplies, materials,
302 equipment and contractual services by any state contracting agency,
303 except purchases and contracts made pursuant to the provisions of
304 section 4e-23 of the 2008 supplement to the general statutes, as
305 amended by this act, shall be awarded by one of the following
306 methods, unless otherwise authorized by law:

307 (1) Competitive sealed bidding;

308 (2) Competitive sealed proposals;

309 (3) Small purchase procedure;

310 (4) Sole source procurement;

311 (5) Emergency procurements; or

312 (6) Waiver of bid or proposal requirement for extraordinary
313 conditions.

314 (b) Not later than ~~June~~ April 1, 2010, the State Contracting
315 Standards Board shall adopt regulations, in accordance with the
316 provisions of chapter 54, to define each of the methods listed in
317 subsection (a) of this section, establish the circumstances in which each
318 such method shall be used by state contracting agencies, and establish
319 the processes and criteria by which purchases and contracts shall be
320 awarded in accordance with each such method.

321 Sec. 11. Section 4e-20 of the 2008 supplement to the general statutes
322 is repealed and the following is substituted in lieu thereof (*Effective*
323 *October 1, 2008*):

324 (a) Not later than ~~June~~ April 1, 2010, the State Contracting
325 Standards Board shall adopt regulations, in accordance with the
326 provisions of chapter 54, specifying the procedure for issuing
327 invitations for bids which shall include the required elements of an
328 invitation for bids, the process for opening of bids, and criteria for the
329 evaluation and award of bids.

330 (b) Not later than ~~June~~ April 1, 2010, the State Contracting
331 Standards Board, in consultation with the Commissioner of
332 Administrative Services, shall adopt regulations, in accordance with
333 the provisions of chapter 54, specifying the circumstances in which
334 contracts and purchase orders, in an amount in excess of fifty thousand
335 dollars, may be awarded by a method of source selection other than
336 competitive sealed bidding.

337 Sec. 12. Section 4e-21 of the 2008 supplement to the general statutes
338 is repealed and the following is substituted in lieu thereof (*Effective*
339 *October 1, 2008*):

340 (a) Not later than ~~January 1, 2010~~ October 1, 2009, the State
341 Contracting Standards Board, in consultation with the Department of
342 Administrative Services, shall adopt regulations to establish small
343 purchase procedures for procurements that do not exceed fifty
344 thousand dollars. Such regulations shall include a prohibition on the
345 artificial division of a procurement in order to make use of such small
346 procurement procedures.

347 (b) The State Contracting Standards Board, in consultation with the
348 Commissioner of Administrative Services, may determine that a state
349 contracting agency has artificially divided procurement requirements
350 so as to constitute a small purchase under this section and, upon such
351 determination shall prohibit the state contracting agency from utilizing
352 such small purchase procedures.

353 (c) The State Contracting Standards Board, in consultation with the
354 Commissioner of Administrative Services, may waive the requirement
355 of competitive bidding or competitive negotiation in the case of minor,
356 nonrecurring or emergency purchases of ten thousand dollars or less
357 in amount.

358 Sec. 13. Section 4e-22 of the 2008 supplement to the general statutes
359 is repealed and the following is substituted in lieu thereof (*Effective*
360 *October 1, 2008*):

361 Not later than [June] April 1, 2010, the State Contracting Standards
362 Board, in consultation with the Commissioner of Administrative
363 Services, shall adopt regulations, in accordance with the provisions of
364 chapter 54, specifying the circumstances in which a contract may be
365 awarded for a supply, service or construction item without
366 competition. Such regulations shall include, but not be limited to,
367 situations in which an agency contracting officer states in writing that
368 there is only one source for the required supply, service or
369 construction item, provided sole source procurement is not permitted
370 unless a requirement is available from only a single supplier.

371 Sec. 14. Section 4e-23 of the 2008 supplement to the general statutes
372 is repealed and the following is substituted in lieu thereof (*Effective*
373 *October 1, 2008*):

374 Not later than [June] April 1, 2010, the State Contracting Standards
375 Board, in accordance with the provisions of chapter 54, shall adopt
376 regulations establishing procedures for waiver of competitive bid or
377 proposal requirements.

378 Sec. 15. Section 4e-24 of the 2008 supplement to the general statutes
379 is repealed and the following is substituted in lieu thereof (*Effective*
380 *October 1, 2008*):

381 Not later than [June] April 1, 2010, the State Contracting Standards
382 Board, in consultation with the Commissioner of Administrative
383 Services and any other appropriate award authority, shall adopt

384 regulations, in accordance with the provisions of chapter 54,
385 permitting emergency procurements when there exists a threat to
386 public health, welfare or safety. Such emergency procurements shall be
387 made with competition, as is practicable under the circumstances. Said
388 regulations shall require that a written determination of the basis for
389 the emergency and for the selection of the particular contractor be
390 included in the contract file and transmitted to the Governor, the
391 president pro tempore of the Senate, the majority and minority leaders
392 of the Senate, the speaker of the House of Representatives and the
393 majority and minority leaders of the House of Representatives.

394 Sec. 16. Section 4e-26 of the 2008 supplement to the general statutes
395 is repealed and the following is substituted in lieu thereof (*Effective*
396 *October 1, 2008*):

397 Not later than [June] April 1, 2010, the State Contracting Standards
398 Board, in consultation with the Commissioner of Administrative
399 Services, shall adopt regulations, in accordance with the provisions of
400 chapter 54, establishing standards for the preparation, maintenance,
401 and content of specifications for supplies, services, and construction
402 required by the state.

403 Sec. 17. Section 4e-27 of the 2008 supplement to the general statutes
404 is repealed and the following is substituted in lieu thereof (*Effective*
405 *October 1, 2008*):

406 Not later than [June] April 1, 2010, the State Contracting Standards
407 Board, in consultation with the Attorney General, shall adopt
408 regulations, in accordance with the provisions of chapter 54, specifying
409 the types of contracts that may be used by state contracting agencies.
410 Such regulations shall specify that a cost-reimbursement contract may
411 be used only when a determination is made in writing by the agency
412 procurement officer that such contract is likely to be less costly to the
413 state than any other type or that it is impracticable to obtain the
414 supplies, services or construction required except under such a
415 contract.

416 Sec. 18. Section 4e-28 of the 2008 supplement to the general statutes
417 is repealed and the following is substituted in lieu thereof (*Effective*
418 *October 1, 2008*):

419 Not later than [June] April 1, 2010, the State Contracting Standards
420 Board shall adopt regulations, in accordance with the provisions of
421 chapter 54, requiring that contractors submit appropriate
422 documentation to the appropriate state contracting agency, prior to the
423 award of a contract, to confirm that the proposed contractor's
424 accounting system will permit timely development of all necessary
425 cost data in the form required by the specific contract type.

426 Sec. 19. Section 4e-41 of the 2008 supplement to the general statutes
427 is repealed and the following is substituted in lieu thereof (*Effective*
428 *October 1, 2008*):

429 Not later than [June] April 1, 2010, the State Contracting Standards
430 Board shall adopt regulations, in accordance with the provisions of
431 chapter 54, that specify the process that shall be used to procure
432 architectural and engineering services in design-bid-build
433 procurements, construction in design-bid-build procurements and
434 construction management at-risk. Such regulations shall include a
435 description of the project delivery methods.

436 Sec. 20. Section 4e-42 of the 2008 supplement to the general statutes
437 is repealed and the following is substituted in lieu thereof (*Effective*
438 *October 1, 2008*):

439 Not later than [June] April 1, 2010, the State Contracting Standards
440 Board shall adopt regulations, in accordance with the provisions of
441 chapter 54, that require bid security for all competitive sealed bidding
442 for construction contracts in a design-bid-build procurement when the
443 price is estimated by the state contracting agency to exceed five
444 hundred thousand dollars.

445 Sec. 21. Section 4e-43 of the 2008 supplement to the general statutes
446 is repealed and the following is substituted in lieu thereof (*Effective*

447 *October 1, 2008*):

448 Not later than ~~June~~ April 1, 2010, the State Insurance and Risk
449 Management Board established pursuant to section 4a-19 shall adopt
450 regulations, in accordance with the provisions of chapter 54, in
451 consultation with the State Contracting Standards Board, that specify
452 when a state contracting agency shall require proposers to provide
453 appropriate errors and omissions insurance to cover architectural and
454 engineering services under the project delivery methods established in
455 regulations adopted pursuant to section 4e-41 of the 2008 supplement
456 to the general statutes, as amended by this act.

457 Sec. 22. Section 4e-44 of the 2008 supplement to the general statutes
458 is repealed and the following is substituted in lieu thereof (*Effective*
459 *October 1, 2008*):

460 Not later than ~~June~~ April 1, 2010, the State Contracting Standards
461 Board shall adopt regulations, in accordance with the provisions of
462 chapter 54, to establish the process to be used to procure consultant
463 services, and in consultation with the Attorney General, the type of
464 contract to be used to procure such consultant services.

465 Sec. 23. Section 4e-45 of the 2008 supplement to the general statutes
466 is repealed and the following is substituted in lieu thereof (*Effective*
467 *October 1, 2008*):

468 With respect to infrastructure facilities, not later than ~~June~~ April 1,
469 2010, the State Contracting Standards Board, in consultation with the
470 state contracting agencies and the Attorney General, shall adopt
471 regulations, in accordance with the provisions of chapter 54, requiring
472 the inclusion in state contracts with any state contracting agency of
473 clauses providing for adjustments in prices, time of performance,
474 remedies, termination or other contract provisions necessary to protect
475 the interests of the state.

476 Sec. 24. Section 4e-46 of the 2008 supplement to the general statutes
477 is repealed and the following is substituted in lieu thereof (*Effective*

478 October 1, 2008):

479 Not later than [June] April 1, 2010, the State Contracting Standards
480 Board shall adopt regulations, in accordance with the provisions of
481 chapter 54, concerning the procedure and circumstances under which
482 a state agency may allow contract modification, change order, or
483 contract price adjustment under a construction contract with the state
484 in excess of fifty thousand dollars. Such regulations shall require that
485 every contract modification, change order or contract price adjustment
486 under a construction contract with the state in excess of fifty thousand
487 dollars shall be subject to prior written certification by the fiscal officer
488 of the state contracting agency or other agency responsible for funding
489 the project or the contract, or other official responsible for monitoring
490 and reporting upon the status of the costs of the total project budget or
491 contract budget, as to the effect of the contract modification, change
492 order, or adjustment in contract price on the total project budget or the
493 total contract budget. Such regulations shall further provide that in the
494 event the certification of the fiscal officer or other responsible official
495 discloses a resulting increase in the total project budget or the total
496 contract budget, the agency procurement officer shall not execute or
497 make such contract modification, change order, or adjustment in
498 contract price unless sufficient funds are available or the scope of the
499 project or contract is adjusted so as to permit the degree of completion
500 that is feasible within the total project budget or total contract budget
501 as it existed prior to the contract modification, change order, or
502 adjustment in contract price under consideration provided, with
503 respect to the validity, as to the contractor, of any executed contract
504 modification, change order, or adjustment in contract price which the
505 contractor has reasonably relied upon, it shall be presumed that there
506 has been compliance with the provisions of this section.

507 Sec. 25. Section 4e-47 of the 2008 supplement to the general statutes
508 is repealed and the following is substituted in lieu thereof (*Effective*
509 *October 1, 2008*):

510 On or after [January] October 1, 2011, the State Contracting

511 Standards Board shall adopt regulations, in accordance with the
 512 provisions of chapter 54, to apply the contracting procedures, as
 513 described in sections 4e-18 to 4e-45, inclusive, as amended by this act,
 514 to each constituent unit of the state system of higher education. Such
 515 regulations shall take into consideration circumstances and factors that
 516 are unique to such constituent units.

517 Sec. 26. (*Effective from passage*) Section 17 of public act 07-1 of the
 518 September special session shall be effective October 1, 2009.

519 Sec. 27. (*Effective from passage*) Section 19 of public act 07-1 of the
 520 September special session shall be effective August 1, 2009.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>October 1, 2008</i>	4e-1
Sec. 5	<i>October 1, 2008</i>	4e-10
Sec. 6	<i>October 1, 2008</i>	4e-11
Sec. 7	<i>October 1, 2008</i>	4e-12
Sec. 8	<i>October 1, 2008</i>	4e-14
Sec. 9	<i>October 1, 2009</i>	4e-17
Sec. 10	<i>August 1, 2009</i>	4e-19
Sec. 11	<i>October 1, 2008</i>	4e-20
Sec. 12	<i>October 1, 2008</i>	4e-21
Sec. 13	<i>October 1, 2008</i>	4e-22
Sec. 14	<i>October 1, 2008</i>	4e-23
Sec. 15	<i>October 1, 2008</i>	4e-24
Sec. 16	<i>October 1, 2008</i>	4e-26
Sec. 17	<i>October 1, 2008</i>	4e-27
Sec. 18	<i>October 1, 2008</i>	4e-28
Sec. 19	<i>October 1, 2008</i>	4e-41
Sec. 20	<i>October 1, 2008</i>	4e-42
Sec. 21	<i>October 1, 2008</i>	4e-43
Sec. 22	<i>October 1, 2008</i>	4e-44
Sec. 23	<i>October 1, 2008</i>	4e-45
Sec. 24	<i>October 1, 2008</i>	4e-46

Sec. 25	<i>October 1, 2008</i>	4e-47
Sec. 26	<i>from passage</i>	New section
Sec. 27	<i>from passage</i>	New section

Statement of Legislative Commissioners:

Additional sections were listed in section 1 and sections 26 and 27 were added for purposes of consistency with the remaining sections of the bill.

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Contracting Standards Board	GF - Cost	250,000	1,350,000
Department of Administrative Services	GF - Cost	140,000	188,000
Policy & Mgmt., Off.	GF - Cost	60,000	80,000
Various State Agencies	GF - Cost	See Below	See Below
Pub. Works, Dept.	GF - Cost	See Below	See Below
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	76,000	602,700

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill changes the dates for implementing PA 07-1 of the September Special Session (SSS), An Act Concerning Clean Contracting Standards.

PA 07-1 SSS established the State Contracting Standards Board (SCSB) effective January 1, 2009 and appropriated \$700,000 in operating budget funds for FY 09. This bill changes the SCSB effective date to October 1, 2008, which will increase the agency's FY 09 budgetary requirements by \$250,000. The FY 10 (full year) operating costs are expected to be \$1,350,000, including Personal Services costs of \$761,000 for 10 full-time staff.

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The first year fringe benefit costs for new positions do not include pension costs. The estimated first year fringe benefit rate as a percentage of payroll is 25.36%. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS fringe benefit rate is 33.27%, which when combined with the rate for non-pension fringe benefits totals 58.63%.

Changing the implementation date of PA 07-1 SSS advances the timetable for moving the SCSB into office space that will be able to accommodate 10 full-time staff. If state-owned space is not available, the estimated cost to lease space is \$158,000 annually.² It is unclear at this time how much office space the SCSB will need in its first year of operation and if there will be adequate state-owned office space available.

Passage of this bill will cause the Department of Administrative Services to incur \$140,000 in costs to hire three positions beginning in FY 09, rather than FY 10, to handle the procurement regulations and to develop a procurement education and training program for state employees.³ The annualized cost for these three positions is \$188,000.

In addition, the Office of Policy and Management will incur \$60,000 in costs beginning in FY 09, rather than FY 10, to consult with the SCSB to establish policies and procedures for the development of the cost-benefit analysis and to review privatization contracts.⁴ The annualized cost for this position is \$80,000.

The bill also changes the effective date concerning the contract exemption in the law's privatization procedures. The bill applies the exemption to contracts in effect on October 1, 2008, rather than January 1, 2009. Any state agency required to perform a cost-benefit analysis and business case would incur administrative costs, the magnitude of which would depend on the number and significance of the impacted contracts and the staff required to perform these functions. Affected state agencies would experience any resulting costs earlier, given the change in the privatization provision's effective date.

Under the bill, the procurement procedures apply to any non-privatization contract a state contracting agency solicits or enters into after April 1, 2010 (rather than June 1, 2010 as provided in PA 07-1

² The Department of Public Works administers and funds the leasing of office space in the Hartford area.

³ Under PA 07-1 SSS costs to DAS were anticipated to begin in FY 10.

⁴ Under PA 07-1 SSS costs to OPM were anticipated to begin in FY 10.

SSS). The change in the effective date for procurement procedures advances the administrative requirements and responsibilities for state contracting agencies. Affected agencies would experience a significant workload increase, which may necessitate additional staff or resources, earlier in FY 10. The impact will depend on the number of contracts each agency administers and the procurement procedures developed by SCSB.

OLR Bill Analysis**sSB 205*****AN ACT CONCERNING THE IMPLEMENTATION OF STATE CONTRACTING REFORM.*****SUMMARY:**

PA 07-1, September Special Session (SSS) revamped the state's contracting process by establishing a State Contracting Standards Board (SCSB) as an independent agency and giving it various responsibilities associated with state contracting, including adopting procurement regulations and reviewing, monitoring, and auditing state contracting agencies' procurement processes. The law's procurement procedures apply to any contract, other than a privatization contract, a state contracting agency solicits or enters after June 1, 2010.

The law requires the Judicial and Legislative branches and statewide officers to each adopt a procurement code.

It establishes a procedure for privatizing state contracts, including a requirement for cost-benefit analyses and business cases.

This bill changes the dates for implementing PA 07-1, SSS on state contracting reform. In some cases, it changes the effective dates of specific sections of PA 07-1, SSS and, in others, it changes the date by which specified actions must occur. In all but one instance, the new implementation dates are earlier than in the original legislation. The exception is the date by which the SCSB must adopt regulations applying the procurement procedures in PA 07-01, SSS to each constituent unit of higher education. Under the bill, this date is extended from January 1, to October 1, 2011.

Under the bill, the procurement procedures in PA 07-1, SSS apply to

any non-privatization contract a state contracting agency solicits or enters after April 1, 2010 rather than June 1, 2010 as provided in that act.

The bill changes the contract exemption in the law's privatization procedures. By law, a state contracting agency may contract with a nonprofit agency without first developing a cost-benefit analysis and a business case if (1) the state contracting agency has a contract with the nonprofit on January 1, 2009 and (2) the contract will continue to be awarded to nonprofits through contract renewals, modifications, extensions, or rebiddings. The bill applies the exemption to contracts in effect on October 1, 2008, rather than January 1, 2009.

EFFECTIVE DATE: Upon passage or October 1, 2008 for the effective date changes; August 1, 2009 for the effective date of the provision on regulations defining the methods for awarding contracts; and October 1, 2009 for application of the procurement procedures.

IMPLEMENTATION DATES

<i>Provisions</i>	<i>Current Effective Dates or Deadlines</i>	<i>Effective Dates or Deadlines Under the Bill</i>
Definitions	1/1/09	10/1/08
SCSB established and given (1) powers and duties regarding state procurement policies and (2) duties and responsibilities regarding state contracting agencies' procurement practices	1/1/09	10/1/08
Requirement for new procurement procedures to apply to certain contracts by a specified date	6/1/10	10/1/09

Agency procurement officers -appointment and responsibilities	1/1/09	10/1/08
SCSB's duty to submit legislation on the application of new procurement laws and regulations	1/1/09	10/1/08
SCSB's duty to help the secretary of the state, comptroller, treasurer, and attorney general develop the best procurement practices	1/1/09	10/1/08
SCSB's duty to conduct compliance audits	10/1/11	10/1/08
SCSB's authority to review, terminate, or recommend the termination of a contract or procurement agreement	10/1/11	10/1/08
Contracting Standards Advisory Council established	1/1/09	10/1/08
Vendor and Citizen Advisory Panel established	1/1/09	10/1/08
State Contracting Portal established	1/1/09	10/1/08
Exemption from SCSB's general duties and privatization policies for a pilot program that creates and expands janitorial jobs for people with disabilities or a disadvantage	1/1/09	10/1/08
State contracting agencies' authority to request information that substantiates the reasonableness of a bidder's or proposer's price or cost	1/1/09	10/1/08
State contracting agencies' contracts must permit the agencies to conduct compliance	1/1/09	10/1/08

inspections of contractors' and subcontractors' businesses		
State contracting agencies may audit the relevant books and records of a contractor or subcontractor under any negotiated contract or subcontract	1/1/09	10/1/08
Requirement for state contracts to be awarded using one of six methods	10/1/09	8/1/09
Requirement for suspicions of collusion or other anticompetitive practices among bidders or proposers to be reported to the attorney general	1/1/09	10/1/08
Requirement for state contracting agency to retain and dispose of all procurement records in accordance with the public records administrator's records retention guidelines and schedules	1/1/09	10/1/08
Requirement for state contracting agencies to develop a cost-benefit analysis and a business case before privatizing any state service not currently privatized	1/1/10	1/1/09
Requirement for the administrative services commissioner to establish a requisition system for use by state contracting agencies	6/1/10	4/1/10
Requirement for agency procurement officers to keep a record of all procurement contracts valued at less than \$50,000 for a minimum of five years	6/1/10	4/1/10
SCSB's authority to disqualify contractors,	6/1/10	4/1/10

bidders, or proposers		
Authority of department heads of state contracting agencies to suspend any contractor, bidder, or proposer	6/1/10	4/1/10
Authority of bidders and proposers to contest the solicitation or award of a contract	6/1/10	4/1/10
Process for appealing an agency's suspension decision	6/1/10	4/1/10
Handling of illegal solicitations and contract awards	6/1/10	4/1/10
Requirement for all Legislative Branch, Judicial Branch, and state contracting agency contracts to contain provisions on accountability, transparency, and results-based outcomes	1/1/09	10/1/08
Date by which SCSB must submit legislation to permit state contracting agencies, other than quasi-public agencies, institutions of higher education, and municipalities, to comply with state procurement laws and regulations	7/1/10	5/1/10
Date by which SCSB must submit legislation to (1) have procurement laws apply to constituent units of higher education and (2) apply privatization and procurement statutes and regulations apply to quasi-public agencies	7/1/10	5/1/10
Date by which SCSB must submit	7/1/12	5/1/12

legislation to have procurement laws apply to municipal procurement processes when state funds are involved		
Date by which statewide officers must adopt a procurement code	6/1/11	4/1/11
Requirement for the Judicial and Legislative branches to prepare a procurement code	1/1/09	10/1/08
Date by which the Judicial and Legislative branches must prepare a procurement code	2/1/11	12/1/10
Date by which the Judicial Branch must submit its code to the Judiciary Committee for review and approval	2/1/11	12/1/10
Date by which state procurement contracts, including those of the Judicial and Legislative branches, must contain provisions to ensure accountability, transparency, and results-based outcomes	6/1/10	4/1/10
Requirement for SCSB to adopt regulations	1/1/09	10/1/08
Date by which SCSB must adopt all regulations, except those (1) establishing small purchase procedures for procurements of \$50,000 or less and (2) applying procurement procedures to constituent unit of higher education	6/1/10	4/1/10
Date by which SCSB must adopt regulations in consultation with administrative services, establishing small purchase procedures for procurements of \$50,000 or less	1/1/10	10/1/09

Date by which SCSB must adopt regulations applying PA 07-01, SSS procurement procedures to each constituent unit of higher education, taking into consideration circumstances and factors unique to them	1/1/11	10/1/11
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COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 11 Nay 0 (02/25/2008)